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# Estate Planning Questionnaire

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For Individuals with Children (No Spouse)

**Fort Jackson Legal Assistance Office**

(803) 751-4287

Typically, ownership of property DOES NOT automatically pass to the surviving spouse/partner or children at your death. A Last Will and Testament tells a Court who should receive your property after you die. Probate is the process by which a Court transfers legal ownership of your probate property to your beneficiaries. Estate planning documents, such as a Last Will and Testament or Transfer on Death Deed, and beneficiary designations can help minimize the need for and expense of probating your estate.

**You MUST fill out this Estate Planning Questionnaire - COMPLETELY.**

**Instructions:** Please fill out this questionnaire. It is important that you answer EVERY question. If a question does not apply to your particular situation, you may leave it blank. If the answer to any question requires more space than has been provided on the form, add the information in the “Additional Information” section and refer to the question number to which your answer applies. Since your answers are being made to an attorney, they are confidential and are protected by the attorney-client privilege.

**This Legal Assistance Office reserves the right to limit or deny assistance in the following situations:**

- (1) Complex estates, as determined by the attorney;
- (2) Estates valued over \$12.9 million (including non-probate assets such as life insurance);
- (3) Estates in which either a spouse owns or has an interest in a business;
- (4) Estates involving special needs planning;
- (5) Estates in which, in the judgment of the attorney, our estate planning services are inappropriate.
- (6) Estates in which the client did not or refuses to cooperate with Legal Assistance staff, including fully completing this questionnaire.

## INSTRUCTIONS FOR OBTAINING A WILL, LIVING WILL, AND POWERS OF ATTORNEY

**APPOINTMENTS.** This is a two-step procedure which requires an initial appointment with the attorney after completing the questionnaire and a follow-on appointment to sign your documents. After the initial appointment, a draft copy of all documents will be prepared and sent electronically to you. Any changes/corrections can be addressed through email correspondence. Please note that regulations require our office to supervise the execution of your will.

**ESTATE PLANNING** creates a process under which your property and assets are given to others upon your death. It may also include the preparation of documents that permit others to make financial and medical decisions for you in the event you become incapacitated. Every estate plan is different, but most include a will, an advanced medical directive, and various powers of attorney.

**SGLI / Life Insurance.** Your estate plan should account for life insurance (i.e., SGLI), government benefits (i.e., death gratuity) and other types of assets (e.g., jointly-owned bank accounts and real estate) that automatically pass to your designated beneficiaries upon your death. Pending your appointment with our office, we recommend that you update your DD Form 93, Record of Emergency Data, to designate beneficiaries to your \$100,000 death gratuity.

**Blended Families.** If you have children from a prior marriage or relationship, you should discuss “pre-residuary trust” options with your attorney. These trusts guarantee that your children from prior relationships will obtain your intended gifts and not risk the possibility that your spouse will neglect them in the spouse’s estate plan, if applicable.

**Trusts.** If you have minor children or other beneficiaries that are not yet ready to manage assets on their own, you may want to include a trust in your will that allows you to designate a person to look after your beneficiary’s assets until your beneficiary is able to assume sole ownership and control of the assets at an age that you consider appropriate. Your will should name guardians for your minor children in the event you die while your children are young. Please be sure to discuss special life insurance options with your attorney when leaving life insurance money to minors. Your attorney can advise you on whether you should pay your life insurance through your will, or whether it might be better to use a statutory trust, such as the Uniform Transfer to Minors Act (UTMA).

### Data Required by the Privacy Act of 1974

**Authority:** Title 10 USC Section 3013

**Principal Purpose:** The purpose of this form is to assist the attorney in preparing legal documents for the client. The information on this form is protected by the attorney-client privilege and may be released only in accordance with law or with the approval of the client.

**Routine uses:** Information on this form will be used to provide legal advice and to prepare legal correspondence and documents for the client.

**Disclosure:** Voluntary. However, nondisclosure may preclude the legal assistance desired by the client

## WILL TERMINOLOGY

**WHAT IS A WILL?** A will is a legally effective declaration of a person's wishes as to the disposition of his/her property upon death. It must be executed with the formalities required by statute. The provisions of wills do not take effect until after the death of the maker. A will never disposes of the proceeds of insurance policies with named beneficiaries, nor does it dispose of some items of property which are held under various forms of special ownership, such as joint tenancy with a right of survivorship or tenancy by entirety. In a will, you will designate an Executor/trix and if minor children are involved, a guardian (see definitions below). It is important that you contact the prospective Executor/trix and Guardian prior to the preparation and execution of the will to ensure that he/she/they is/are willing to accept the position.

**WHO IS THE BENEFICIARY?** Anyone to whom the maker of a will (testator/trix) leaves a portion of his/her property.

**WHAT DOES BEQUEATH MEAN IN A WILL?** To give personal property by will.

**WHAT IS DOMICILE?** A person's permanent home. The place to which, whenever he/she is absent, he/she has the intention of returning. You can have more than one residence, but you can only have one domicile. Your intent, voting, paying taxes, registering automobiles, obtaining a driver's license, and location of assets are factors considered in determining domicile. For military members, your domicile is often your legal residence (e.g., your home of record), not the place you are currently living.

**WHAT IS AN ESTATE?** All property, real and personal, in which a person has an interest, such as money, savings accounts, stocks, house, furniture, insurance policies, etc.

**WHAT DOES RESIDUARY ESTATE MEAN?** Residuary is a derivative of the word "residue." It means what is left over. Your residuary estate is the portion of your estate that is left over when everything else is disposed of.

**WHAT IS A BOND?** Money put up by a guardian or executor to insure against loss occasioned by their negligence or theft.

**WHAT DOES EXECUTION MEAN?** To validate a will by correctly signing it and having it witnessed.

**WHO IS THE EXECUTOR/EXECUTRIX?** The person named in a will to carry out the wishes expressed in the will. An Executor is male; an Executrix is female. Upon the death of a maker of a will, the Executor/trix must take the will to the proper court for probate. Once the court accepts the will as valid, the court officially appoints the person as Executor/trix. An Executor/trix may be entitled to compensation for his/her services. Individuals serving in this capacity serve subject to court approval. While most courts follow the desires of the Testator/trix in his/her will, they are not bound to do so. A bond may be required of an Executor/trix. In some states the term "Personal Representative" means the same thing as Executor/trix.

**WHO IS A GUARDIAN?** One who is responsible for caring for the person and/or property of a minor child. Individuals serving in this capacity serve subject to court approval. While most courts follow the desires of the Testator/trix in his/her will, they are not bound to do so. Courts can require guardians to post a bond.

**WHO IS THE TESTATOR/TESTATRIX?** You, the person making the will. A Testator is male; a Testatrix is female.

**WHAT IS PERSONAL AND TANGIBLE PROPERTY?** Property which is moveable.

**WHAT IS A PROBATE?** A court proceeding where the Executor/trix seeks to establish a will as genuine, settle all the debts of an estate, and distribute the property in the estate to the heirs according to the wishes of the will maker as expressed in the will.

**WHAT IS A PROBATE ESTATE?** The portion of an estate that requires court supervised administration to effect transfer of title. It does not include property transferred at the time of a person's death by other means, such as property held as joint tenants with right of survivorship or life insurance paid to a designated beneficiary. For tax purposes, all property which the decedent owned or in which he/she had an interest may be included in the taxable estate, although some of it is not within the probate estate.

**WHAT IS REAL PROPERTY?** Property that has a fixed location, such as land or a house.

**Your Personal Information**

Military Status:

\_\_\_\_\_ Active Duty or Reservist  
\_\_\_\_\_ Retired  
\_\_\_\_\_ Spouse or Dependent of Active Duty  
\_\_\_\_\_ Spouse or Dependent of Retiree  
\_\_\_\_\_ Other (e.g, deploying civilian)

Gender: \_\_\_\_\_

Your Preferred Pronouns:

\_\_\_\_\_ (he/him)  
\_\_\_\_\_ (she/her)  
\_\_\_\_\_ (they/their)  
\_\_\_\_\_ Other preference (please state): \_\_\_\_\_

Are you a U.S. Citizen?:      Yes                      No

Full Legal Name: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Contact Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Residency Information**

In what state do you claim residency? \_\_\_\_\_

Do you pay state income tax? \_\_\_\_\_ For what state? \_\_\_\_\_

### Children

Please provide the requested information for **every child born or adopted by you, living and deceased** – even if you do not intend for that child to inherit. If there are more children, please list in the “Additional Information” section.

Name	Gender	Age	Bio/adopted/ step?	Disability?	Living?

For any child with a disability, will the disability impair the child’s ability to care for themselves? Yes      No

Do you wish to treat any stepchildren as your children for inheritance purposes in your will? Yes              No

### Do You Want to Disinherit Anyone?

Name: \_\_\_\_\_ Relationship To You: \_\_\_\_\_

Name: \_\_\_\_\_ Relationship To You: \_\_\_\_\_

Name: \_\_\_\_\_ Relationship To You: \_\_\_\_\_

Do you also want to disinherit their heirs (their children, for example)? Yes      No

*Your Burial information*

Do you desire full military honors? Yes                      No

Are there any instructions for the distribution of flags to certain individuals? Yes                      No

List recipients :    Name: \_\_\_\_\_

                         Name: \_\_\_\_\_

                         Name: \_\_\_\_\_

Disposition of your remains:

    Cremation

        and scatter at \_\_\_\_\_

        and given to \_\_\_\_\_

        and given to \_\_\_\_\_ and scattered

    Buried

        at \_\_\_\_\_

        at a location to be determined by my Executor

        \_\_\_\_\_ Other (please describe): \_\_\_\_\_

Do you have any additional disposition requests? (for example, preference for a religious service, etc.) \_\_\_\_\_

### **Prior Marital Information**

Were you previously married? Yes      No      How did that marriage end?

Do you have any continuing financial obligations to a former spouse or children from a prior relationship? (If yes, please describe. For example, child support, spouse support, life insurance requirement.) \_\_\_\_\_

### **Prior Estate Planning**

Do you have a Last Will & Testament? Yes      No      If yes, please attach.

Do you have a Trust, Revocable Trust, or Revocable Living Trust? Yes      No

### **Property Information**

**Real Property (house and/or land)** – please attach the legal description of the property. Legal description is found on the Deed. This includes property that you are buying.

Description and Location	Titled in whose name Indicate if Sole, Joint or Beneficiary and name	Purchase Price	Fair Market Value	Outstanding mortgage

Who do you want these properties to go to: \_\_\_\_\_



### **Other Titled Property**

**Do you own any other titled property such as a car, boat, etc.?**

Description And where titled	Titled in whose name Indicate if Joint or Beneficiary and name	Market Value	Mortgage	Equity

### **Financial Accounts**

Please identify all financial accounts; examples include checking accounts, savings accounts, money market, and education savings accounts.

**1. Do you have any checking accounts?**

Name of Bank	Titled in whose name Indicate if Joint or Beneficiary and name	Approx. Balance

**2. Do you have any interest bearing accounts (savings, money market) and/or CD's?**

Name of Bank	Titled in whose name Indicate if Joint or Beneficiary and name	Approx. Balance

**3. Do you own or have an interest in a family business?**

Name of Business	Owners & Ownership Interest	Value of your interest

**4. Do you own any stocks, bonds, or mutual funds (including company stock)? (You do not need to list individual stock holdings held in a brokerage. List only the name of the financial institution.)**

Name of Security/Brokerage	Titled in Whose Name Indicate if Joint or Beneficiary and name	Current Value

**5. Do you have any profit sharing, IRAs, 401Ks or pension plans?**

Description/Location	Beneficiary	Current Value

**6. Do you have any life insurance policies and/or annuities?**

Name of Company	Insured	Policy Owner	1 <sup>st</sup> Beneficiary	2 <sup>nd</sup> Beneficiary	Death Benefit
SGLI					

**7. Does anyone owe you money?**

Description	Approx. Value

8. Do you have any special items of value such as coin collections, antiques, jewelry, etc.?

Description	Approx. Value

**If there is additional property, please list it on a separate sheet of paper.**

Is your COMBINED total estate, including life insurance, financial accounts, real property, motor vehicles, and personal property worth more than \$12.9 million dollars?      Yes      No

*Your total estate includes all assets, financial accounts, stocks, bonds, mutual funds, IRA's, real property, personal property, etc. There can be **serious** tax consequences and issues for estates over the estate tax limit and may need to consult a private attorney, tax attorney, and/or a financial planner in such a circumstance*

**The next section tells us about your goals and any concerns you may have about your estate plan.**

Your Last Will and Testament tells the Court and your Executor who should get your probate property when you die. You can give your property to anyone you choose. You can give your property to a single person – for example – everything to my wife. You can give your property to a group of people – for example – everything to my grandchildren. You can also give your property in percentages – for example – 50% to my niece, 25% to my nephew, and 25% to my neighbor. You can also choose alternates to receive your property in case the primary person(s) you want to inherit passes away before you.

You are not bound by your responses in this section. Your attorney will discuss your choices with you and make changes, if needed.

**What is your primary goal or objective with your Last Will and Testament?**

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**What are your primary concerns with your Last Will and Testament or your estate plan?**

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**Specific Bequests**

You may make separate gifts of cash, specific investments, real estate, or personal property to specific people or charities in your will. These bequests will be distributed first and reduce the amount of property left for your other beneficiaries. Specific bequests (and trusts) are appropriate methods of setting aside money and property for children of prior relationships. If you make no specific bequests, all of your property will pass to your primary beneficiaries listed below in the Residuary Estate. Do you wish to make any specific bequest in your will?

If Yes, please list your specific bequest(s) and who you want to receive it (them):

Name	Relationship	Item or Dollar Amount

### **Disposition of Tangible Personal Property**

“Tangible” personal property are non-monetary items such as furniture, collectibles and personal effects.

Who do you want your personal property to go to?:

Your state of residence may permit the use of a separate “personal property memorandum” (a separate writing giving certain items to certain people. For example, “my pocket watch to my nephew, John Smith.” Do you want to create a personal property memorandum if permitted by your state? Yes      No

### **Who Do You Want to Receive the Remainder of Your Property (i.e., “Residuary Estate”)**

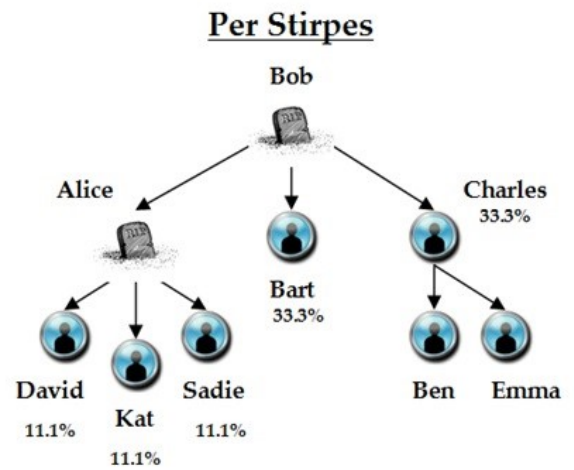
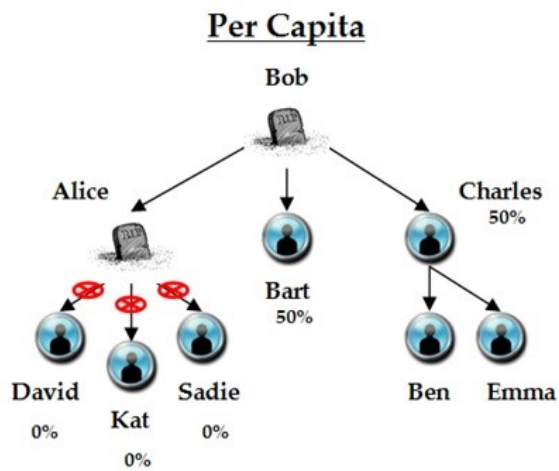
**Who do you want everything else to go to?**

Beneficiaries Name	Relationship	Percentage	Alternate Beneficiary (yes / no)	1 <sup>st</sup> , 2 <sup>nd</sup> , or 3 <sup>rd</sup> Alternate

### ***“Per Stirpes” vs. “Per Capita”***

In case any of the beneficiaries listed above dies before you and leaves children, you must decide if you want the share of the deceased beneficiary to go to their children or to pass only to your beneficiaries that survive (live longer than) you. This is best illustrated by an example:

Assume you leave your estate to your three children in equal shares, but one of your children dies before you. You must decide if you want the share of your deceased child to pass to your grandchildren (the deceased child’s children), which is called “per stirpes” (per stirpes is Latin for “by the roots”), or to be divided equally between your surviving children, which is called “per capita” (per capita is Latin for “by the head”). If any of your beneficiaries dies before you and leaves children, do you want the share to pass to those children per stirpes or per capita?



Do you want your property to go to your surviving children and then to grandchildren IF you have no surviving children? (Per capita)    Yes        No

Do you want your property to go to your surviving children and then the grandchildren of any child that dies before you (this is the most common selection)? (Per stirpes)    Yes        No

### **Trusts for Children and Others**

If any of your beneficiaries are minors or incapable of managing money, you may want to create a Testamentary Trust to hold money on that person's behalf until they reach the age you select.

### **"Pre-Residuary" Trust:**

Do you have a child(ren) (e.g., a child from a prior relationship) whom you would like to receive assets in trust upon your death ?

Yes        No

If yes, please provide the names of the beneficiary(ies) of the Pre-Residuary Trust:


If yes, at what age do you want them to receive the principal balance of the trust funds from your estate?

18      21      25      other

If “other,” please explain:

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Do you want a single trust for all beneficiaries?    Yes      No

Whom do you wish to name as Trustee (the person responsible for managing the money for and supporting your beneficiaries)?:

	Name
1 <sup>st</sup> Choice	
2 <sup>nd</sup> Choice (optional)	
3 <sup>rd</sup> Choice (optional)	

**Residuary Testamentary Trust:**

Do you have a child(ren) who you would like to receive assets in trust upon your death?

Yes      No      If Yes, please provide the names of the beneficiaries of the Residuary Trust:

Name	Relationship

If Yes, at what age do you want them to receive the principal balance of the trust from your estate?

18      21      25      Other, please describe:

Do you want a single trust for all beneficiaries?    Yes      No

Whom do you wish to name as Trustee (the person responsible to manage the money for and support your beneficiaries)?:

	Name
1 <sup>st</sup> Choice	
2 <sup>nd</sup> Choice (optional)	
3 <sup>rd</sup> Choice (optional)	

### **Supplemental Benefits Trust**

Do you want the trustee of your children's trust, if any, to be able to direct a disabled beneficiary's inheritance to a supplemental benefits trust? Yes      No

### **Appointment of Fiduciaries**

You need to choose people to serve as the executor of each will, and the trustee/custodian of any property that will go to a minor child, and/or the guardian of your minor children (if any). These positions require a significant amount of trust, therefore you should not choose someone if you do not believe they will honor your wishes or may mismanage your property. The appointments can be the same or different people. We **STRONGLY** encourage you to discuss the appointment with the person you are selecting **BEFORE** doing your Last Will and Testament, and confirm that the person is willing and able to serve in the selected role.

### **Executor/ Personal Representative**

The Executor/Personal Representative is the person you choose to manage the probate of your estate. List the Executors **in the order** that you would like them to serve.

Executor's Name	Relationship to You	Age	Order of Executor (1st,2nd,3rd)	Is the Person a Convicted Felon?	State where the person lives?



### **Guardian**

The Guardian takes care of your child and their property if both you and your spouse/partner pass away. The Guardian can, but does not have to be, the same person. List the Guardians in the order you would like them to serve. Guardians can be limited to caring for either the child or the estate.

Guardian's Name	Relationship to You	Age	Order in which to serve (1st,2nd,3rd)	Is the Person a Convicted Felon?	State where the person lives?

Do you want your Executor/Personal Representative to have access to digital assets (websites, email etc.)?

Yes      No

### **No-Contest Provision**

Do you want a provision revoking the inheritance of any beneficiary who contests your will?

Yes      No

If Yes, do you want to include contesting children of any beneficiaries?

Yes      No

## **Powers of Attorney**

We recommend that in addition to wills, clients execute statutory durable powers of attorney (for property and health care), and directives to physicians (about the use of life support).

A **durable power of attorney** grants an agent broad powers to act and make decisions on your personal and financial matters. In executing a statutory durable power of attorney, you select the powers and authorities that you want to give to your agent. A **medical power of attorney** grants an agent the ability to make medical decisions for you. This power can be effective either immediately or when a doctor determines you are unable or incompetent to make medical decisions. With both types of powers of attorney the agent is not allowed to act against your wishes or override your decisions. A directive to physicians and surrogates, often called a **living will**, states your wishes regarding life-sustaining procedures if you have a terminal condition or irreversible condition (as determined by your doctor). This document is very important because it take the burden and distress of the decision from your family.

Do you want a Durable Power of Attorney?                      Yes                      No

Who would you like to make financial decisions for you if you are not able to:

**First Choice:**

Name:

Address:

Telephone:

**Second Choice:**

Name:

Address:

Telephone:

If you are on active duty or deploying, do you want this Power of Attorney to become effective if you are declared “missing”, “missing in action” or “prisoner of war”?                      Yes                      No

Do you want your agent(s) to be able to make gifts?                      Yes                      No

If Yes, do you want (select any that apply):

Gifts to specific individuals of any of the property

Name(s):

Outright gifts for estate planning purposes to organizations or individuals.

Make gifts, grants, or transfers to persons or organizations as the Agent may select; and to make payments for education and medical care for the spouse/partner, children, or descendants.

If Yes, education and medical for (select one):

children

descendants

Do you want your agent(s) to be able to (select all that apply):

request, receive, and review any information regarding physical or mental health, including but not limited to, medical and hospital records, and to consent to the disclosure of the information.

act as the principal's personal representative to obtain access to health care information and communicate with health care providers

None

Do you want your agent(s) to have access to digital assets (websites, email etc.)?

Yes

No

If for any reason a court needs to appoint a guardian to handle your financial affairs, who would you like that person to be?

\_\_\_\_\_ Same as agent #1 above

\_\_\_\_\_ Same as agent #2 above

\_\_\_\_\_ Other:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

## ***MEDICAL POWER OF ATTORNEY***

Do you want a Medical Power of Attorney?                      Yes                      No

Who would you like to make medical decisions for you if you are not able to:

### **First Choice**

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_

### **Second Choice**

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_

### **Do you have any special instructions?**

Special directions regarding who may/may not visit you during your admission to health care facilities: \_\_\_\_\_  
\_\_\_\_\_

Any healthcare services authorized/not authorized: \_\_\_\_\_  
\_\_\_\_\_

Any special instructions in case of pregnancy; (for example "I wish to be kept alive until the child can be delivered safely...")

Do you wish to appoint an agent for donation of anatomical gifts?                      Yes                      No

If yes, please designate who you would like to act for you:

Name:

Address:

Telephone: \_\_\_\_\_